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| 08/978,607 | 11/26/1997 | JACQUES FASTREZ | 370068-9650 | 4607 |

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| EXAMINER |
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SAIDHA, TEKCHAND

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| ART UNIT | PAPER NUMBER |
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1652

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|--|--------------------------------------|---------------------------------------|--|
| Notification of Non-Compliant Appeal Brief (37 CFR 41.37) | Application No. 08/978,607 | Applicant(s) FASTREZ ET AL. | |
| | Examiner Tekchand Saidha | Art Unit 1652 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 02.10.05 & 03.31.05, is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37 within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

Applicants' Appeal Brief filed February 10, 2005 and Supplemental Appeal Brief filed March 31, 2005 are defective for inaccurate presentation in referencing the cited information from the specification (see Office Action for details).

Defective Appeal Brief

1. Applicants' Appeal Brief filed February 10, 2005 and Supplemental Appeal Brief filed March 31, 2005 are defective for inaccurate presentation in referencing the cited information from the specification (see Office Action for details)

Following are some more examples of the inaccurate references to pages or lines in an incorrect fashion.

(1) Applicants' Brief, page 12, lines 4-6, describe "Two of these libraries, lib 1A-B and lib1D, contain phage comprising random six amino acid mimotopes inserted in place of β -lactamase residues E104/Y105 and V103/Y105, respectively". See Specification at 21, II. 3-5.

Applicants representative, William L. Strauss, during a telephone interview on April 7, 2005 interpreted "Specification at 21, II. 3-5" to mean Specification at page 21, lines 3-5. However, specification at page 21, lines 3-5, does not contain the cited information. In fact the related information as worded is found no where in the specification.

Related or actual information on page 28, second paragraph, lines 3-4, is - 'six amino acid **inserts** in replacement of residues E104-Y105 and V103-Y105'.

There is no reference to 'mimotope', or β -lactamase residues E104/Y105 and V103/Y105.....'. Slash (/) between residues 104-105 or 103-105 is an error

Art Unit: 1652

(2) A similar error is noticed in the citing the instant specification at page 24, line 16-19 and the subject matter referenced thereof. See 'The Brief', page 12, lines 11-13.

(3) Such errors are in abundance and throughout the Applicants' Appeal Brief.

(4) It is suggested that these defects be fixed before an Examiner's Answer and the forwarding of the case to the 'Board of Appeal and Interferences'.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tekchand Saidha whose telephone number is (571) 272 0940. The examiner can normally be reached on 8.30 am - 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on (571) 272 0928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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April 13, 2005